

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY ONE

**PRESENT
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM**

CIVIL REVISION PETITION NO: 516 OF 2020

Petition under Article 227 of Constitution of India, aggrieved by the Order dated 17/10/2019 in IA No.260/2016 in OS No.236/2016 on the file of the Court of the V Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.

Between:

Smt. V.Laxmikantha, W/o. Sri V.Madhusagar, Aged 52 Years, Occ. Household,
R/o.H.No.13-9-17, Pandu Ranga Nagar, Kukatpally, Hyderabad

...PETITIONER/RESPONDENT

AND

1. Smt. V.Padma, Wo. Late V.Prem Sagar, Aged 54 Years, Occ. Household,
R/o.H.No. 7-2-172/2/A, Ashok Colony, Sanathnagar, Hyderabad
2. Sri V.Shiva Kumar, S/o. Late V.Prem Sagar, Aged 25 Years, Occ. Student,
R/o.H.No. 7-2-172/2/A, Ashok Colony, Sanathnagar, Hyderabad

...RESPONDENTS/PETITIONERS

IA NO: 1 OF 2020

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to Stay all further proceedings in OS No.236 of 2016 on the file of Hon'ble V Additional District and Sessions Judge Ranga Reddy District at L.B.Nagar, pending disposal of the above Civil Revision Petition.

IA NO: 2 OF 2020

Petition filed under Section 124 of CPC praying that for the reasons stated in the accompanying affidavit, the High Court may be pleased to extend the interim orders passed in I.A. No. 1 of 2020 in CRP No. 516 of 2020 dated:06-03-2020 until further orders.

IA NO: 3 OF 2020

Between:

1. Smt. V.Padma, W/o. Late V.Prem Sagar, Aged 54 Years, Occ. Household,
R/o.H.No. 13-9-17, Pandu Ranga Nagar, Kukatpally, Hyderabad
2. Sri V.Shiva Kumar, S/o. Late V.Prem Sagar, Aged 25 Years, Occ. Student,
R/o.H.No. 7-2-172/2/A, Ashok Colony, Sanathnagar, Hyderabad
(Both are presently residing at H.No.5-5-81/12/B2, Ground Floor, Sri
Venkateshwara Nilayam, Sai Baba Nagar Colony, Kukatpally, Hyderabad-
500072)

...PETITIONERS/RESPONDENTS

AND

V.Laxmikantha, W/o. Sri V.Madhusagar, Aged 52 Years, Occ. Household, R/o.H.No.13-9-17, Pandu Ranga Nagar, Kukatpally, Hyderabad

...RESPONDENT/PETITIONER

Petition under Section 151 of CPC praying that for the reasons stated in the accompanying counter affidavit, the High Court may be pleased to vacate the interim order dated 06-03-2020 passed in CRP No. 516 of 2020.

For the Petitioner : SRI P.S.N.MURTHY, Advocate

For the Respondent Nos.1 & 2 : SRI SRINIVAS VELAGAPUDI, Advocate

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.R.P. No. 516 OF 2020

ORDER :

Heard learned counsel for the petitioner and learned counsel for the respondents.

The Order dated 17.10.2019 in I.A.No. 260 of 2016 in O.S.No. 236 of 2016 on the file of the V Additional District & Sessions Judge, Ranga Reddy District at L.B. Nagar is under Revision.

The said Application was filed under Order 15-A of the Code of Civil Procedure, by the respondents - plaintiffs, who claim to be the owners of the suit schedule property, for recovery of arrears of rent due from the petitioner - defendant. By the order under Revision, the learned Judge directed the tenant to deposit the arrears of rent @ Rs.20,000/- per month from the date of suit till date within two months from that day and that she should continue to deposit the said amount on or before 10th of every succeeding month, subject to final result of the main suit.

It is not in dispute that the petitioner was the tenant of the respondents from 2006, though, initially, for five years. Thereafter, the claim of the petitioner is that on account of the financial assistance rendered by her to the respondents, by the agreement dated 08.08.2012, the 1st respondent had agreed to sell the suit schedule property, which was in former's occupation, and also acknowledged receipt of total sale consideration. It was also agreed therein that with effect from that date, no rent would be payable. As a matter of fact, the respondents had agreed to

execute the sale deed as and when demanded, which they failed to do. Hence, O.S. No. 626 of 2015 came to be filed for specific performance and the same is pending as on date. Thereafter, O.S.No. 236 of 2016 was filed by the respondents seeking eviction of the petitioner. The learned Judge failed to appreciate the aspect that in the light of the agreement entered into on 08.08.2012, no rent is payable, thereby the direction to deposit Rs.20,000/- per month, in the absence of jural relationship between the landlords and tenant, is not warranted. The agreement dated 08.08.2012, validity or otherwise of which is in issue in O.S.No. 626 of 2015, is considered for a limited purpose. In the said receipt / undertaking, so far as it is relevant, there is a specific recital that no rent would be payable to the 1st respondent with effect from 08.08.2012 and that the sale deed would be executed as and when demanded.

The learned counsel for the respondents places reliance on the judgment of the Supreme Court in **H.K. Sharma v. Ramlal**¹, a close perusal of which makes it clear that the observations made therein are in the context of the facts of the said case. In para 35 thereof, the Supreme Court had occasion to observe that the terms of the agreement dated 13.05.1993 were examined only for deciding the question as to whether the execution of agreement in any manner, resulted in determination of existing tenancy rights between the parties. For clarity, para 35 is extracted below:

* Before parting, we make it clear that we examined the terms of the agreement dated 13.05.1993 only for deciding the question as to whether the execution of agreement, in any manner, resulted in

¹ (2019) 4 SCC 153

determination of the existing tenancy rights between the parties in relation to the suit is in the context of the T.P. Act and the U.P. Act and not beyond it."

The said case was under a specific enactment called "U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. From a reading of the said judgment, it is clear that there was no automatic severance of jural relationship of landlord and tenant on entering into the agreement of sale. In the case on hand, the terms of Receipt / Undertaking, dated 08.08.2012 reads as under:

"I, Smt. V. Padma, W/o Late V. Prem Sagar, aged 47 years, Occ: Household, R/o 7-2-172/2/A, Ashok Colony, Sanath Nagar, Hyderabad, have today before the elders and well wishers have accepted and admitted the amount of Rs.15,00,000/- (Rupees fifteen Lakhs only) have received towards the amount of my son as well as other expenses being spend on H.No. 9-17, by Smt. V. Lakshmi Kantha and V. Madhu Sagar. Now I am receiving an amount of Rs.15,00,000/- (Rupees fifteen Lakhs only) (from Smt. V. Lakshmi Kantha and V. Madhu Sagar towards the sale of my property bearing No. 9-17, admeasuring 500 sq. yards with built up are of 4800 sq. feet, situated at Pandu Ranga Nagar, Moosapet, Hyderabad, thus totally an amount of Rs.30,00,000/- (Rupees thirty Lakhs only) was received from Smt. V. Lakshmi Kantha and V. Madhu Sagar and I have no objection to execute the sale deed as and when demanded by them and from today Smt. V. Lakshmi Kantha and V. Madhu Sagar will not pay any rent to me."

The language employed therein indicates that with effect from 08.08.2012, there is severance of landlord and tenant relationship which is being disputed. The said issue is to be decided in the main suit. Though the learned Additional District Judge had cited the above-said judgment, there was no analysis made by him with respect to the facts therein and that of the present case. Since there is a doubt as to the jural relationship of landlord and tenant,

at this point of time, invocation of Order 15-A is not warranted. The order under Revision is accordingly, set aside. The Civil Revision Petition is allowed. No costs.

As it is submitted by the learned counsel for the respondents that the petitioner is taking advantage of their relationship and also their financial position and that as on date, O.S.No. 626 of 2015 filed by the petitioner and O.S.No. 236 of 2016 filed by the respondents are pending before the same Court, the learned District Judge shall make an endeavour to dispose them of as expeditiously as possible.

Miscellaneous Petitions, if any shall stand closed.

//TRUE COPY//

Sd/-T.KRISHNA KUMAR
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The V Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.
2. One CC to Sri P.S.N.Murthy, Advocate (OPUC)
3. One CC to Sri Srinivas Velagapudi, Advocate (OPUC)
4. Two CD Copies

Kj.



HIGH COURT

DATED:19/02/2021



ORDER

CRP.No.516 of 2020

ALLOWING THE CRP, WITHOUT COSTS.

PRK
17/03
(5)